

**DECISION**

THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548

FILE:

DATE: OCT 9 1975

60027  
97849B-184501  
MATTER OF:

David A. Dubow - Relocation expenses; Reimbursement of broker's fee

DIGEST:

Transferred employee paid real estate commission on sale of residence. Realty agency voluntarily reimbursed employee for accrued interest charged to employee. Under section 4.2a of OMB Circular No. A-56, employee may be reimbursed for commission, but only to extent he actually paid for services. Employee cannot have nonreimbursable expense, such as accrued interest, changed into reimbursable expense through such reimbursement from agent. Reimbursed amount is reduction of commission and must be refunded to Government.

This matter was forwarded to our Office by a certifying officer of the United States Department of Agriculture who has requested a decision as to whether the Department should request Mr. David A. Dubow, an employee of the Forest Service, to refund \$87.65 for excess relocation expenses reimbursed to him in connection with a change of official station from Atlanta, Georgia, to Alexandria, Louisiana.

Incident to his transfer of official station, Mr. Dubow sold his residence in Atlanta through Cloward Realty, Inc. The record discloses that Mr. Dubow's house was sold for \$28,823.59 and that a sales commission of \$1,729.41 (6 percent) was paid to Cloward Realty, Inc. However, on the closing date, February 27, 1970, Cloward Realty, Inc. voluntarily gave Mr. Dubow a check for \$87.65, the sum of the accrued interest charged to the seller and credited to the purchaser. The realty agency did so because it had not explained this charge to Mr. Dubow and it wanted him to "net" the sum the agency represented he would realize on the sale. Mr. Dubow claimed and was reimbursed the full amount of the commission (\$1,729.41).

Section 4.2a of Office of Management and Budget (OMB) Circular No. A-56, Revised June 26, 1969, in effect at the time of the real estate transaction here involved, provided that " \* \* \* A broker's fee or real estate commission paid by the employee for services in selling his residence is reimbursable \* \* \*".


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
Under that provision, the employee was entitled to be reimbursed for a real estate commission, but only to the extent he actually paid for services in selling the house. B-171953, April 9, 1973. The voluntary payment by the realty agency to Mr. Dubow, in effect, constituted a reduction of the real estate commission paid by him.

Moreover, section 4.2d of OMB Circular No. A-56, supra, provided in pertinent part that, "interest on loans, points, and mortgage discounts are not reimbursable." Since the above section specifically precluded reimbursement for interest, the employee cannot have such a nonreimbursable expense changed into a reimbursable expense through a payment to him by his real estate agent. B-163253, May 24, 1968. This is true even if there is no agreement, formal or informal, for such payment and the agent makes the payment voluntarily. Consequently, the accrued interest of \$87.65 was not properly reimbursable. Thus, Mr. Dubow actually only paid a real estate commission of \$1,641.76, and only this was reimbursable.

In view of the above, Mr. Dubow should be requested to refund the \$87.65 overpayment.

Sincerely yours,

  
Thomas D. Morris

  
Comptroller General  
of the United States